



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,520	03/17/2004	Andrew Fraser	040225-000000US	5488

20350 7590 01/10/2008
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

OMOSEWO, OLUBUSOLA

ART UNIT	PAPER NUMBER
----------	--------------

2168

MAIL DATE	DELIVERY MODE
-----------	---------------

01/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

AK

Office Action Summary	Application No.		Applicant(s)	
	10/803,520		FRASER ET AL.	
	Examiner		Art Unit	
	OLUBUSOLA OMOSEWO		2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-8,10-21 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,10-21 and 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Response to Amendment

1. This action is responsive to communications: Amendment filed on 10/16/2007.
2. Claims 1, 6, 7, 10, 11 and 16 have been amended. Claims 2-5, 9 and 22-23 have been cancelled. Claims 25-28 are new.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-8, 10-21 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Boe et al. (Patent No. U.S. 6,236,975).

For claim 1, Boe teaches "a data management system for identifying patterns in data related to an item, the system comprising a host computer having a construct repository configured to retain a plurality of construct pair reference sets, each construct pair

reference set comprising at least a first descriptive term and a second descriptive term, the first descriptive term and second descriptive term selected according to personal construct theory to represent contrasting Opinions pertaining to an aspect of the item (Col. 9, lines30-48);

a graphical user interface configured to display a user-selectable control related to a construct pair reference set of the plurality of construct pair reference sets and further configured to receive a user's opinion about the aspect of the item selected between the first descriptive term and the second descriptive term, the graphical user interface further configured to store in the construct repository the received user opinion for the construct pair reference set (Col. 12, lines 62-Col. 13, lines 1-19);

and an analysis engine configured to analyze relationships among a plurality of received user opinions for construct pair reference sets retrieved from the construct in which the analysis engine analyses responses made by the user using a statistically based process to generate a recommendation for the user related to the item (Col. 2, lines 60-Col. 3, lines 42, Col. 6, lines 29-67, Col. 9, lines30-48).

For claim 3, Boe teaches " each construct includes two distinct descriptive terms relating to things provided to users by operators of the system" (Col.12, lines 62-Col. 13, lines19)

For claim 4, Boe teaches "descriptive terms of each construct represent contrasting opinions of the thing"(Col.12, lines 62-Col. 13, lines19, Col. 16, lines 24-43)

For claim 5, Boe teaches "which obtains data from a user that represents a user's opinion of the thing in a range defined by the descriptive terms"(Col. 5, lines 1-9)

For claim 6, Boe teaches "in which the graphical user interface is configured to receive the user's opinion about the item in a number of discrete selectable steps within a range between the first descriptive term and the second descriptive term, that number of steps being referred to as a mesh"(Col. 3, lines 23-34, Col. 12, lines 62-Col. 13, lines 19)

For claim 7, Boe teaches "further comprising a graphical user interface is configured to receive the user's opinion about the item in a number of discrete selectable steps within a range between the first descriptive term and the second descriptive term, that number of steps being referred to as a "mesh" and in which the mesh is adjusted in reaction to inputs made by users"(Col. 3, lines 23-34, Col. 12, lines 62-Col. 13, lines 19)

For claim 8, Boe teaches "in which the mesh is iteratively reduced until a minimum mesh value that yields a meaningful result is identified"(Col. 10, lines 34-66)

For claim 10, Boe teaches "in which the user can input a value representative of their opinion by adjustment of the position of a control provided by the graphical user interface"(Col. 10, lines 34-50)

For claim 11, Boe teaches "in which the results of the analysis are further used to deduce a set of information items of interest to a particular user"(Col. 6, lines 29-67)

For claim 12, Boe teaches "in which the system executes on a server that communicates with a user over a network link"(Col. 8, lines 32-53)

For claim 13, Boe teaches "a user data input component that executes on a remote host system"(Col. 4, lines 1-30)

For claim 14, Boe teaches "in which the data input component is represented in the display generated by a web browser"(Col. 10, lines 9-67)

For claim 15, Boe teaches "in which the data input component is generated by an applet that is downloaded to the remote host from the server"(Col. 3, lines 44-Col. 4, lines 24)

For claim 16, Boe teaches "in which the construct pair reference set is obtained through use of a repertory grid in accordance with personal construct theory"(Col. 4, lines 39-60, Col. 9, lines 30-48)

For claim 17, Boe teaches "in which incomplete data is processed by matching those parts of the data that are present with characteristics of existing data"(Col. 13, lines 1-58)

For claim 18, Boe teaches "in which the incomplete data is subject to discriminant analysis"(Col. 13, lines 1-58)

For claim 19, Boe teaches "in which data is subject to a process of linearisation prior to its being analysed"(Col. 5, lines 4-30)

For claim 20, Boe teaches "in which the process of linearisation includes conversion of non-numeric data to a numeric form"(Col. 3, lines 15-22)

For claim 21, Boe teaches "in which users are the customers of a business and the output includes predictive information as to the future purchasing behaviour of the customers"(Col. 12, lines 62-67, Col. 13, lines 1-19)

For claim 24, Boe teaches "a network server system operative to serve web pages to remote clients comprising a web server for generating HTML code to be rendered on a remote browser and an analysis server that implements a data management system according to claim 1, the data management system deriving input data from analysis of a user's interaction with one or more rendered web pages" (Col. 4, lines 25-60)

For claim 25, Boe teaches "A data management system for identifying patterns in data related to an item, the system comprising a host computer system having an analysis

engine configured to analyze relationships among a plurality of opinions made by a user by executing a fuzzy entailment process that:

retrieves from a construct repository a plurality of user rankings for a plurality of construct pair reference sets, each construct pair reference set comprising at least two descriptive terms that represent contrasting user opinions regarding aspects of the item; produces a first set of entailment values by determining statistically how constructs within the plurality of user rankings relate to themselves (Col. 2, lines 60-Col. 3, lines 40); produces a second set of entailment values by determining statistically how rankings of the plurality of user rankings relate to themselves (Col. 2, lines 60-Col. 3, lines 42); and compares the first set of entailment values to the second set of entailment values using a statistically-based process to identify a plurality of dynamic groups of related users, determine for a given user a selected dynamic group of the plurality of dynamic groups having a stronger bond to the user than other dynamic groups of the plurality of dynamic groups, and using behaviors of the selected dynamic group to generate a recommendation for the user related to the item" (Col. 2, lines 60-Col. 3, lines 42, Col. 6, lines 29-67, Col. 9, lines 30-48).

For claim 26, Boe teaches "analyze relationships among a plurality of received user opinions for construct pair reference sets retrieved from the construct repository in which the analysis engine analyses responses made by the user using a statistically-based process to generate a recommendation for the user related to the item (Col. 2, lines 60-Col. 3, lines 42, Col. 6, lines 29-67, Col. 9, lines 30-48);

determine the actual user behavior related to the item (Col. 2, lines 60-Col. 3, lines 42); compare the recommendation of the statistically-based process against the actual user behavior related to the item to make adjustments to the statistically-based process aimed to improve its accuracy with respect to the item for the user" (Col. 12, lines 62-Col. 13, lines 19, Col. 16, lines 24-43).

For claim 27, Boe teaches "in which the item is selected from one of a person, a product, a service, a topic, a concept, an event, and an experience" (Col. 9, lines 30-48)

For claim 28 Boe teaches "wherein the user-selectable control is configured to have a discrete number of settings for receiving the user's opinion about the aspect of the item" (Col. 3, lines 23-34, Col. 12, lines 62-Col. 13, lines 19)

Response to Argument

5. Applicant's argument filed October 16, 2007 has been fully considered but they are not persuasive. The examiner respectfully traverses applicant's arguments.

As per claim 1, applicant argued that Boe does not teach "selecting construct pair reference sets comprised of contrasting descriptive terms pertaining to aspects of an item, and the contrasting descriptive terms have been selected according to personal

construct theory". However, similar to applicant's example of the determination of a user's perception related to personal computer using a survey, Boe also teaches a determination of a user's financial goal using a survey. Boe teaches at Col. 9, lines 30-48, wherein based on financial goals, there are two types of choices a customer could make; a customer may select either goals or spend options. The customer will be given the survey questions (aspect of an item) based on their selection. Boe further teaches that the customer will answer questions pertaining to the financial goals, based on the options chosen. However, after the customer has answered the questions, based on the descriptive term (IF condition) which exposes the user's perception (personal construct theory), then a descriptive term (What-if) will be presented to the customer according to the financial goals.

Applicant also argued that Boe does not teach using a statistical process to analyze the data that he collects from a given user against other data collected directly from that same user in order to detect patterns in the user's opinions". On the contrary Col. 4, lines 39-60 of Boe's teaches, based on a potential customer (user) response to series of survey questions; the survey system creates a demographic characterization of that particular customer (user). However, based on that specific customer's opinion received during the survey, it enables the business system to know which product or service to target to the specific customer who may be more likely to purchase that specific products or services. Thus teachings are synonymous to applicant's teachings of analyzing all the data collected from a given user to determine the specific user's opinion.

CONCLUSION

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUBUSOLA OMOSEWO whose telephone number is 571-272-2738. The examiner can normally be reached on Tuesday-Thursday from 10.00-6.00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

OLUBUSOLA OMOSEWO
Examiner
Art Unit 2168